THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28175 of 1995

ORAL ORDER:

This writ petition is filed being aggrieved by the award passed by the first respondent-Labour Court in I.D.No.134 of 1992 dated 6.1.1993.

It appears, the petitioner was initially appointed as Cleaner in APSRTC and was attached to second respondent. While so, during the year 1980, the petitioner was absented from duty without intimation and without sanction of leave from 28.7.1980 to 11.9.1980. Therefore, after conducting a detailed enquiry into the matter, his services were terminated through proceedings dated 14.10.1980. Aggrieved by the same, petitioner after more than 12 years, filed an appeal before the Regional Manager, APSRTC, Bhagyanagar Region, JBS Picket. The Regional Manager, after detailed consideration of the matter, dismissed the appeal by order dated 13.7.1992 holding that if the petitioner was sick, he should have reported at the APSRTC Hospital and submitted a sick certificate. It is further held that the absence of the petitioner for such a long period without intimation to the Depot authorities for over a decade clearly indicates that the petitioner is not interested in the job. Questioning the same, petitioner raised an Industrial Dispute before the first respondent-Labour Court under Section 2A(2) of the Industrial Disputes Act, 1947. Before the Labour Court, petitioner did not let either any oral or documentary evidence to support his case. However, on behalf of respondent-Corporation, M.1 and M.2 were marked. After detailed consideration of the matter, the Labour Court took a lenient view of the matter and ordered for reinstatement of the petitioner into service without backwages and continuity of service. However, his past service of 10 years was directed to be counted for gratuity alone and his absence from 12.9.1980 to 14.10.1980 was treated as leave on loss of pay.

Aggrieved by the same, the present writ petition is filed.

The learned counsel for the petitioner states that in the facts and circumstances of the case, petitioner is entitled for protection of his service apart from continuity of service for the period he was out of service.

On the other hand, the learned counsel for respondents supported the impugned award passed by the Labour Court and submitted that the Labur Court itself has taken a lenient view of the matter and granted relief in favour of petitioner and therefore, petitioner is not entitled for any further relief in this writ petition.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

In this regard, it may be necessary to notice that the petitioner was appointed in the year 1975 as Cleaner. He was removed from service on 14.10.1980 for the unauthorized absence for a long period. Thereafter, he did not raise his little finger, and filed the appeal before the Regional Manager, APSRTC, which could not have been entertained by the said authority. However, the said appeal was dismissed on 13.7.1992 after due consideration. Aggrieved by the same, petitioner raised a dispute under Section 2A(2) of the I.D. Act on 15.7.1992. The Labour Court, in fact entertained such petition after more than 12 years and took a lenient view of the matter and granted relief of reinstatement into service by observing that the period of 10 years of service shall be taken for the purpose of gratuity, of course, without backwages and without continuity of service. This itself shows that the Labour Court has granted five years concession for the purpose of gratuity. Otherwise, the petitioner had put

in only five years of service before 14.10.1980.

In view of the above, I am of the onion that the petitioner does not deserve any lenience to be shown for granting any further relief. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 31.10.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28175 of 1995

31.10.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.28175 of 1995

Date: 31st October, 2006

Between:

D.Manohar

.. Petitioner

And

The Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, represented by its Presiding Officer, Nampally, Hyderabad & another.

.. Respondents